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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 ESTATE OF DAVID BURKHART,) No. C 07-5467 PJH
14 Plaintiff,)
15 v.)
16 UNITED STATES DEPARTMENT OF)
VETERANS AFFAIRS,)
17 Defendant.)
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**DECLARATION OF LELIA K.
TOKUYAMA IN SUPPORT OF
DEFENDANT'S MOTION TO DISMISS**

I, Lelia K. Tokuyama, declare as follows:

1. I am a Staff Attorney in the U.S. Department of Veterans Affairs (“VA”), VA Regional Counsel Office, located at VA Medical Center, 4150 Clement Street, Building 210, San Francisco, CA 94121.

2. The VA Regional Counsel Office maintains a legal case tracking system, known as VA General Counsel Laws (GC Laws). All administrative tort claims (SF-95) filed in the Northern California region are entered into the GC Laws legal case tracking system.

3. I have reviewed the GC Laws legal case tracking system for all administrative tort claims related to David Burkhart (the decedent). The only SF-95s related to the decedent that I located in the system were filed by the decedent's surviving spouse, Sally Burkhart. The GC Laws system contains no record of an SF-95 filed by David T. Burkhart, William M. Burkhart, or Lisa A. Haran.

4. I was responsible for the processing of Ms. Burkhart's SF-95s. A true and correct copy of the SF-95s filed by Ms. Burkhart is attached as Exhibit A. Ms. Burkhart's SF-95s were received by the VA around October 21, 2005. Ms. Burkhart's SF-95s were signed by Ms. Burkhart in her individual capacity, and not as a Personal Representative of the Estate of David Burkhart. In processing Ms. Burkhart's SF-95s, I obtained the decedent's medical file from the VA Palo Alto Health Care System, which includes the VA's Palo Alto, Menlo Park and Livermore health care facilities. Those records showed that the decedent's date of death was October 26, 2003. A true and correct copy of excepts from the decedent's medical file is attached as Exhibit B.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 11, 2008 at Oakland, California.

/s/
Lelia K. Tokuyama
VA Staff Attorney